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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,997	07/12/2001	Edwin I. Bernard	LIT3-B045	2238
21611	7590	10/01/2004	EXAMINER	
SNELL & WILMER LLP 1920 MAIN STREET SUITE 1200 IRVINE, CA 92614-7230			ZEADE, BERTRAND	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/903,997	Applicant(s) BERNARD, EDWIN I.	
	Examiner Bertrand Zeade	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7,8,15,16 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-8,21-23,15-16,24-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 7-8,15-16,21-28 have been considered but are moot in view of the new ground(s) of rejection.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "pilot and aircraft" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant

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will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 15-16,24-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Mosier (U.S.6574030).

Mosier (6574030) discloses a multi-mode display using an electronically controlled mirror having:

Regarding claim 15, a method of activating an array of LEDS (242) having a plurality of different groups of like colored LEDs (242) adjacent the LCD (226), transmitting light from the LEDs array (242) into the plane of the LCD (226) to illuminate the LCD, filtering infrared light emitted by the array (242) of LEDs before it is transmitted to the LCD, and selectively switching on different groups of like colored LEDs (242) in the array or switching on all the LEDs in the array (242) so that the pilot of the air craft may use (NVIS-A or NVIS-B night vision goggles (col. 5, lines 3-28).

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Regarding claim 16, the step of switching colors further includes switching on only those LEDs red (col. 5, lines 25-28).

Regarding claim 24, the filters (224) are adapted for NVIS-B goggles letting a small amount of red light through (col. 5, lines 25-28).

Regarding claim 25, the selectively switching step, when NVIS-B goggles are worn by the pilot, all the LEDs (242) in the array are switched on (col. 5, lines 6-28).

Regarding claim 26, in the selectively switching step, when NVIS-A goggles are worn by the pilot, only one different group of like colored LEDs (242) in the arrays are switch on (col. 5, lines 6-28).

Regarding claim 27, one different group of like colored LEDs is not red (col. 5, lines 26-28).

Regarding claim 28, an LEDs array (242/230) having a plurality of different groups of like colored LEDs disposed to backlight the LCD (200) a filter (224) for filtering out infra-red light from the LEDs (230), and a switch or (control circuit 32) for selectively powering different groups of like colored LEDs in the array or powering all the LEDs in the array (242/230), whereby the lighting apparatus is switchable for use with NVIS_ and NVIS-b night vision goggles (col. 5, lines (3-28).

Claim Rejections - 35 U.S.C. § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Lippman et al. (U.S. 5,695,269).

Lippmann ('269) discloses a multi-color display lighting by LED having:

Regarding claim 7, a pair of LED arrays (28) disposed on a plane perpendicular to the plane of the LCD (10), each LED array (28) having a plurality of different groups of different like colored LEDs (28,36), light pipe (22) parallel to the plane of the LCD for transmitting light from the array of LEDs (28) into the plane with the LCD (10), with and of the LCD (10) for providing illumination thereof, the filters (20) disposes between each of the arrays (28) and the pipes (22) for filtering out light from the LEDs, a switch filter (20) disposed between the array (28) and the light pipe (22) for filtering out light from the LEDs (28).

It has been held that the functional "whereby" statement does not define any structure and accordingly can not serve to distinguish. In re Mason, 114 USPQ 127, 44 CCPA 937 (1957). Therefore, in lines 16 of claim 7 "whereby the lighting apparatus is switchable for use with NVIS-A and NVIS-B night vision goggles is a functional language.

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Regarding claim 8, the array of LEDs (28) includes only red light (col. 1, lines 43-67).

Lippmann ('269) does not disclose an infrared light filter.

It would have been obvious to one of ordinary skill in the art at the time invention was made to replace the red filter of Lippman ('269) with an infrared filter, because changing red filter to infrared filter will block any heat that has been generated by light in order to keep the apparatus cool.

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lippmann (U.S.5,695,269) in view of Mosier (U.S.6574030).

Lippmann (U.S.5,695,269) disclose the claimed limitations except for a night vision (NVIS) goggles.

However, Mosier ('030) discloses a multi-mode display using an electronically controlled mirror having:

Regarding claim 21, the filter (24/224) are adapted for NVIS goggles letting a small amount of red light through (col. 5, lines 6-28).

Regarding claim 22, when NVIS goggles are worn by the pilot, the switch is set to light only one different group of like colored light LEDs (242) in the arrays (col. 5, lines 6-28).

Regarding claim 23, when NVIS goggles are worn by the pilot, the switch is set to light only one different group of like colored light LEDs (242) in the arrays (col. 5, lines 6-28).

It would have been obvious to one of ordinary skill in the art at the time invention was made to utilize the multi-color display lighting by LED of Lippmann

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('269) with the night vision (NVIS) goggles taught by Mosier (U.S.6574030), in order to provide a display system including means for filtering light to attenuate at least a portion of the light associated with the visual image, and means for directing light from the light source. The means for directing directs the light through the means for filtering in the first mode of operation and directs the light to the means for providing a visual image without passing through the means for filtering in a second mode of operation, because the system is preferably configured to be operated in a night vision mode (NVIS mode) and a non-night vision mode (daytime mode).

Contact Information

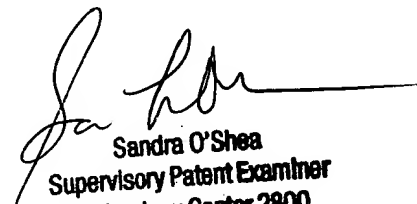
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bertrand Zeade whose telephone number is 571-272-2387. The examiner can normally be reached on 9:30 AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bertrand Zeade
Examiner
Art Unit 2875



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800